

# FINAL BILL REPORT

## SHB 2640

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Synopsis as Enacted

**Brief Description:** Providing biotechnology product and medical device manufacturing tax incentives.

**Sponsors:** By House Committee on Finance (originally sponsored by Representatives B. Sullivan, McCoy, O'Brien, Haler, Sells, Morris, Ericks, Strow and Dunn).

**House Committee on Technology, Energy & Communications**

**House Committee on Finance**

**Senate Committee on International Trade & Economic Development**

**Senate Committee on Ways & Means**

### **Background:**

#### Biotechnology in Washington

According to the Department of Community, Trade and Economic Development (DCTED), Washington has 190 companies dedicated to biotechnology, of which:

- 37 percent pursue the research and development of therapeutic products;
- 27 percent focus on diagnostics;
- 21 percent engage in contract manufacturing and genetic testing;
- 9 percent undertake plant, agriculture and animal research; and
- 4 percent concentrate on natural resources.

Since 1995, local biotechnology companies have attracted more than \$400 million in venture capital investment and produced more than \$500 million in research partnerships with biotech and pharmaceutical companies. The biotech industry generates an estimated \$1.8 billion in revenues and nearly \$500 million in exports. The DCTED estimates that biotechnology and medical technology companies in Washington, in 2005, directly employed more than 23,000 people with indirect employment exceeding 69,000.

#### Sales and Use Tax

Sales tax is imposed on retail sales of most items of tangible personal property and some services, including construction and repair services. The use tax is imposed at the same rate as the retail sales tax on items used in Washington that were not subject to the sales tax. Sales and use taxes are imposed by the state, counties, and cities. There are a number of sales and use tax exemptions, including machinery and equipment directly used in manufacturing.

### **Summary:**

#### Biotechnology and Medical Device Tax Incentive

Targeted tax incentives are created to encourage the formation, expansion, and retention of commercial operations related to biotechnology product and medical device manufacturing.

Persons constructing an eligible biotechnology or medical device investment project qualify for a sales and use tax deferral that need not be repaid as long as the project involves biotechnology and/or medical devices for at least eight years. An eligible investment project means an investment in qualified buildings or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project.

If a person changes the use of the project for purposes other than qualified biotechnology product or medical device manufacturing at any time during the first eight years of operation, portions of the deferral must be repaid. Deferred taxes to be repaid equal 100 percent for the first year and are reduced by 12.5 percent per year up to year eight.

Applications for deferral of taxes must be made in a form and manner prescribed by the Department of Revenue and approved before initiation of construction or acquisition of equipment or machinery.

Biotechnology means a technology based on the science of biology, microbiology, molecular biology, cellular biology, biochemistry, or biophysics, or any combination of these, and includes, but is not limited to, recombinant DNA techniques, genetics and genetic engineering, cell fusion techniques, and new bioprocesses, using living organisms or parts of organisms.

Biotechnology product means any virus, therapeutic serum, antibody, protein, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or analogous product produced through the application of biotechnology that is used in the prevention, treatment, or cure of diseases or injuries to humans.

Medical device means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or similar or related article, including any component, part, or accessory, that is designed or developed and:

- (a) recognized in the national formulary, or the United States pharmacopeia, or any supplement to them;
- (b) intended for use in the diagnosis of disease, or in the cure, mitigation, treatment, or prevention of disease or other conditions in human beings or other animals; or
- (c) intended to affect the structure or any function of the body of man or other animals, and which does not achieve any of its primary intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

#### Annual Survey

A person who receives the benefit of a biotechnology product and medical device tax deferral must provide an annual survey to the Department of Revenue in order to assist the Legislature in evaluating whether the goals of the legislation are being achieved. The annual survey is due by March 31 following any year in which a tax deferral is claimed or used.

The annual survey must include amount of the tax deferral claimed or used for the reporting year. In addition, it must include: the number of total employment positions; a breakdown of full-time, part-time and temporary employment positions as a percent of total employment; the

number of employment positions according to wage bands; and the number of employment positions that have employer-provided medical, dental, and retirement benefits by each of the wage bands. The wage bands are: less than \$30,000; \$30,000 or greater, but less than \$60,000; and \$60,000 or greater. If a person fails to submit an annual survey, the Department of Revenue must declare 12.5 percent of the deferred tax from the date of the deferral to be immediately due and payable.

#### Reporting

The Department of Revenue must use information collected in annual surveys to prepare summary descriptive statistics by category and to study the tax incentive. Statistics shall be reported to the Legislature by September 1 of each year. By December 1, 2009, and December 1, 2015, the Department of Revenue shall report to the Legislature on the status of the tax incentive. These reports may present information to evaluate whether the goals of the legislation are being achieved. Report measures include, but are not limited to, the number of new biotechnology produce and medical device manufacturing facilities established in Washington; the amount of investment in biotechnology product and medical device manufacturing facilities, and the wages and benefits paid for related jobs.

#### **Votes on Final Passage:**

House	93	5
Senate	43	3

**Effective:** July 1, 2006